

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Jarrett Blanton,	)	C/A No. 0:18-2202-JFA-PJG
	)	
Plaintiff,	)	
	)	
v.	)	<b>ORDER REGARDING</b>
	)	<b>AMENDMENT OF COMPLAINT</b>
Southern Health Partner; Tammy Gordon;	)	
Robert Padgett,	)	
	)	
Defendants.	)	
_____	)	

The plaintiff, Jarrett Blanton, a self-represented state pretrial detainee, brings this civil rights action. The Complaint has been filed pursuant to 28 U.S.C. § 1915 and § 1915A. This matter is before the court pursuant to 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2) (D.S.C.). Having reviewed the Complaint in accordance with applicable law, the court finds this action is subject to summary dismissal if Plaintiff does not amend the Complaint to cure the deficiencies identified herein.

**I. Factual and Procedural Background**

Plaintiff, an inmate at the Cherokee County Detention Center, indicates he has had “major amounts” of blood in his stool since December 2017 and nurses hired by Southern Health Partner are not doing anything about it. (Compl., ECF No. 1 at 3-4.) Plaintiff indicates he filed a grievance over this issue and was given suppositories as a result. (Id. at 8.) Plaintiff indicates he brings this action for damages against the defendants *only* in their official capacities pursuant to 42 U.S.C. § 1983. (Id. at 4, 6.) Plaintiff’s Complaint contains no specific claims, no other allegations, and no other information.

## **II. Discussion**

### **A. Standard of Review**

Under established local procedure in this judicial district, a careful review has been made of the *pro se* Complaint pursuant to the procedural provisions of the Prison Litigation Reform Act (“PLRA”), Pub. L. No. 104-134, 110 Stat. 1321 (1996), including 28 U.S.C. § 1915 and 28 U.S.C. § 1915A. The Complaint has been filed pursuant to 28 U.S.C. § 1915, which permits an indigent litigant to commence an action in federal court without prepaying the administrative costs of proceeding with the lawsuit, and is also governed by 28 U.S.C. § 1915A, which requires the court to review a complaint filed by a prisoner that seeks redress from a governmental entity or officer or employee of a governmental entity. See McLean v. United States, 566 F.3d 391 (4th Cir. 2009). Section 1915A requires, and § 1915 allows, a district court to dismiss the case upon a finding that the action is frivolous, malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B); 28 U.S.C. § 1915A(b).

In order to state a claim upon which relief can be granted, the plaintiff must do more than make mere conclusory statements to state a claim. See Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009); Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555 (2007). Rather, the complaint must contain sufficient factual matter, accepted as true, to state a claim that is plausible on its face. Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 570. The reviewing court need only accept as true the complaint’s factual allegations, not its legal conclusions. Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 555.

This court is required to liberally construe *pro se* complaints, which are held to a less stringent standard than those drafted by attorneys. Erickson v. Pardus, 551 U.S. 89, 94 (2007); King v. Rubenstein, 825 F.3d 206, 214 (4th Cir. 2016). Nonetheless, the requirement of liberal construction does not mean that the court can ignore a clear failure in the pleading to allege facts which set forth a claim cognizable in a federal district court. See Weller v. Dep't of Soc. Servs., 901 F.2d 387 (4th Cir. 1990); see also Ashcroft v. Iqbal, 556 U.S. 662, 684 (2009) (outlining pleading requirements under Rule 8 of the Federal Rules of Civil Procedure for “all civil actions”).

## **B. Analysis**

A legal action under 42 U.S.C. § 1983 allows “a party who has been deprived of a federal right under the color of state law to seek relief.” City of Monterey v. Del Monte Dunes at Monterey, Ltd., 526 U.S. 687, 707 (1999). To state a claim under § 1983, a plaintiff must allege: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988). While Plaintiff claims he brings this suit pursuant to § 1983, he does not identify a statutory or constitutional right that he feels was violated. Therefore, in accordance with the court’s duty to liberally construe *pro se* complaints, see Erickson, 551 U.S. at 94;, the court construes Plaintiff’s Complaint as alleging that the defendants were deliberately indifferent to Plaintiff’s serious medical needs in violation of the Fourteenth Amendment.

Generally, to establish a claim based on alleged deliberate indifference, an inmate must establish two requirements: (1) objectively, the deprivation suffered or injury inflicted was “sufficiently serious,” and (2) subjectively, the prison officials acted with a “sufficiently culpable state of mind.” Farmer v. Brennan, 511 U.S. 825, 834 (1994); Williams v. Benjamin, 77 F.3d 756,

761 (4th Cir. 1996). “What must be established with regard to each component ‘varies according to the nature of the alleged constitutional violation.’ ” Williams, 77 F.3d at 761 (quoting Hudson v. McMillian, 503 U.S. 1, 5 (1992)); but see Kingsley v. Hendrickson, 135 S. Ct. 2466, 2472 (2015) (holding that for a pretrial detainee to establish an *excessive force* claim under the Fourteenth Amendment, he need not show that the officer was subjectively aware that the use of force was excessive; rather, he need only show that the force purposely, knowingly, or possibly recklessly used against him was objectively unreasonable).

However, even assuming Plaintiff has raised a cognizable legal claim, the Complaint is subject to summary dismissal because it fails to state a claim upon which relief can be granted as to the named defendants. Plaintiff’s claim against Southern Health Partners, a corporation, is subject to dismissal for failure to state a claim because Plaintiff has not alleged that this defendant violated his rights pursuant to a policy or custom. See Austin v. Paramount Parks, Inc., 195 F.3d 715, 728 (4th Cir. 1999) (“[A] private corporation is liable under § 1983 only when an official policy or custom of the corporation causes the alleged deprivation of federal rights.”). The only allegation Plaintiff provides about this defendant is that it hired nurses who have not provided Plaintiff with adequate medical care. Such a claim is wholly insufficient to plausibly show that Southern Health Partners violated Plaintiff’s rights under the Fourteenth Amendment. See Iqbal, 556 U.S. at 678; Twombly, 550 U.S. at 570.

As to the individual defendants, Gordon and Padgett, Plaintiff fails to allege any facts about these defendants that would show they were personally involved in any purported constitutional deprivation. See Iqbal, 556 U.S. at 676 (providing that a plaintiff in a § 1983 action must plead that the defendant, through his own individual actions, violated the Constitution); Wright v. Collins, 766

F.2d 841, 850 (4th Cir. 1985) (“In order for an individual to be liable under § 1983, it must be ‘affirmatively shown that the official charged acted personally in the deprivation of the plaintiff’s rights. The doctrine of *respondeat superior* has no application under this section.’ ”) (quoting Vinnedge v. Gibbs, 550 F.2d 926, 928 (4th Cir. 1977)). Accordingly, Plaintiff’s Complaint fails to plausibly show that these defendants are liable to Plaintiff.<sup>1</sup>

Consequently, Plaintiff’s Complaint is subject to summary dismissal pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and § 1915A(b)(1) for failure to state a claim upon which relief can be granted. Plaintiff is hereby granted **twenty-one (21) days** from the date this order is entered (plus three days for mail time) to file an **amended complaint** pursuant to Federal Rule of Civil Procedure 15(a) that corrects the deficiencies identified above.<sup>2</sup> If Plaintiff fails to file an amended complaint that corrects those deficiencies, this action will be recommended for summary dismissal pursuant to 28 U.S.C. § 1915 and § 1915A.

**IT IS SO ORDERED.**

August 20, 2018  
Columbia, South Carolina



Paige J. Gossett  
UNITED STATES MAGISTRATE JUDGE

*Plaintiff’s attention is directed to the important WARNING on the following page.*

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<sup>1</sup> The court also notes that Plaintiff’s Complaint indicates that he seeks relief against the named defendants only in their official capacities, rather than their personal or individual capacities. Plaintiff is warned that to the extent any of these defendants are government actors, a claim against government actors in their official capacities are really just claims against the government itself. See Kentucky v. Graham, 473 U.S. 159, 166-67 (1985) ( “Official-capacity suits . . . ‘generally represent only another way of pleading an action against an entity of which an officer is an agent.’ ”) (citing Monell v. New York City Dep’t of Soc. Servs., 436 U.S. 658, 690, n.22 (1978)).

<sup>2</sup> Any amended complaint filed by Plaintiff is also subject to further initial review by the court pursuant to 28 U.S.C. § 1915 and § 1915A.

## IMPORTANT INFORMATION . . . PLEASE READ CAREFULLY

### WARNING TO PRO SE PARTY OR NONPARTY FILERS

ALL DOCUMENTS THAT YOU FILE WITH THE COURT WILL BE AVAILABLE TO THE PUBLIC ON THE INTERNET THROUGH PACER (PUBLIC ACCESS TO COURT ELECTRONIC RECORDS) AND THE COURT'S ELECTRONIC CASE FILING SYSTEM. **CERTAIN *PERSONAL IDENTIFYING INFORMATION* SHOULD NOT BE INCLUDED IN, OR SHOULD BE REMOVED FROM, ALL DOCUMENTS BEFORE YOU SUBMIT THE DOCUMENTS TO THE COURT FOR FILING.**

Rule 5.2 of the Federal Rules of Civil Procedure provides for privacy protection of electronic or paper filings made with the court. Rule 5.2 applies to **ALL** documents submitted for filing, including pleadings, exhibits to pleadings, discovery responses, and any other document submitted by any party or nonparty for filing. Unless otherwise ordered by the court, a party or nonparty filer should not put certain types of an individual's personal identifying information in documents submitted for filing to any United States District Court. If it is necessary to file a document that already contains personal identifying information, the personal identifying information should be "**blacked out**" or **redacted** prior to submitting the document to the Clerk of Court for filing. A person filing any document containing their own personal identifying information **waives** the protection of Rule 5.2(a) by filing the information without redaction and not under seal.

#### 1. Personal information protected by Rule 5.2(a):

**(a) Social Security and Taxpayer identification numbers.** If an individual's social security number or a taxpayer identification number must be included in a document, the filer may include only the last four digits of that number.

**(b) Names of Minor Children.** If the involvement of a minor child must be mentioned, the filer may include only the initials of that child.

**(c) Dates of Birth.** If an individual's date of birth must be included in a document, the filer may include only the year of birth.

**(d) Financial Account Numbers.** If financial account numbers are relevant, the filer may include only the last four digits of these numbers.

#### 2. Protection of other sensitive personal information – such as driver's license numbers and alien registration numbers – may be sought under Rule 5.2(d) (filings made under seal) and (e) (protective orders).